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DELPHI TECHNOLOGIES, INC.			LUGO, CARLOS	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/919,326
Filing Date: July 31, 2001
Appellant(s): TORRES ET AL.

Francis Fodale
For Appellant

EXAMINER'S ANSWER

This is a revised examiner's answer to correct some informality to the last examiner's answer mailed on October 28, 2005. Specially, this revised answer correct the Evidence Relied Upon section by including the missing reference or evidence used in the rejection.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal: None

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner:

- Claims 5,7,8 and 13-15 rejected under 35 U.S.C. § 102(b) in view of US Pat No 3,792,416 to Moulin.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Pat No 5,540,450 to Hayashi et al (July 1996).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 5,7-11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,540,450 to Hayashi et al (Hayashi).

Regarding claims 5 and 8, Hayashi discloses a device comprising a sleeve (3) comprising a longitudinal axis and an insertion end and a skirt integrally formed on the sleeve (14a and 16a, Figure 2).

The skirt comprises a first integral section extending in a plane which is substantially perpendicular to the longitudinal axis and a second integral section comprising an interior surface and a sealing surface that extends along the length of the sleeve in a direction opposite to the insertion end such that there is a gap between the interior surface and the sleeve (Figure 2).

As to claims 7,14 and 15, Hayashi discloses that the sleeve includes a wiping land (6).

As to claims 9 and 16, Hayashi discloses a method of sealing an opening of a cavity comprising the steps:

a) Inserting a portion of a structure (2) through a sleeve (3) of a sealing assembly (Col. 3 Lines 26-28, Figures 1 and 2), wherein the sealing assembly has a molded skirt (14a and 16a, Figure 2) constructed from an electrically insulating, elastomeric material.

b) Inserting a section of the structure including portion of the structure inserted through the sealing assembly into the cavity through the cavity opening so that the molded skirt is in sealing contact with the inside surface of the cavity (Col. 3 Lines 47 and 48, Figure 2); wherein the molded skirt comprises a sealing surface that has substantially the same shape as the interior surface of the cavity prior to insertion into the cavity so that the skirt deforms only a small amount to form a seal between the sealing surface and the interior surface of the cavity (Figure 2).

As to claims 10 and 11, Hayashi discloses the step of cleaning a portion of the interior surface of the cavity using the wiping land (6). Since the wiping lands are pressed against the interior surface, they will clear the surface during insertion (Col. 3 Lines 47-50).

As to claim 13, Hayashi discloses that the skirt is integrally formed in the sleeve (Figure 2).

(10) Response to Argument

Regarding applicant's arguments with respect to the rejection of claims 5,7,8, and 13-15 in view of US Pat No 3,792,416 to Moulin (Page 5 line 14 to Page 7 Line 21), the rejection has been withdrawn by the examiner.

Regarding applicant's arguments with respect to the rejection of claims 5,7,8, and 13-15 in view of US Pat No 5,540,450 to Hayashi (Page 7 Line 22), the arguments are not persuasive.

The applicant argues that Hayashi fails to disclose an arrangement where the sealing surface has substantially the same shape as the interior surface of the cavity prior to insertion into the cavity (Page 8 Line 6).

First, claims 5,8, and 13 are directed to a device comprising a sleeve and a skirt having first and second sections. The fact that the device is used for sealing a cavity, wherein the cavity has an interior surface, has little patentable weight since it is considered as the intended use of the device. The recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus, which differentiates it from a prior art reference disclosing the structural limitations of the claim. At the instant, the applicant does not positively claim the internal cavity.

Second, even if the interior surface was considered during the examination, Hayashi still discloses the invention as claimed. Hayashi discloses that the device (3) is intended to be used inside a cavity of a seal cylinder (1). Hayashi discloses that the device has an annular groove (14a) that divides the end of the device into inner and outer cylinders (11a and 16a), wherein the outer cylinder forms a "skirt" having first and second sections (see attachment #1). As seen in attachment #2, Hayashi illustrates, in a cross sectional view, that the sealing surface of the skirt (16a) has the same shape (circular shape) as the internal surface of the cavity (at 1).

Therefore, Hayashi clearly discloses that the sealing surface of the skirt has substantially the same shape as the interior surface of the cavity, a circular shape.

As to applicant's arguments regarding the rejection to claims 9-11 and 16 in view of Hayashi (Page 8 Line 22), the arguments presented by the applicant are not persuasive.

The applicant argues that Hayashi fails to disclose the step of inserting a section of the structure including portion of the structure inserted through the sealing assembly into the cavity through the cavity opening so that the molded skirt is in sealing contact with the inside surface of the cavity; wherein the molded skirt comprises a sealing surface that has substantially the same shape as the interior surface of the cavity prior to insertion into the cavity so that the skirt deforms only a small amount to form a seal between the sealing surface and the interior surface of the cavity (Page 8 Lines 24-32).

The applicant further argues that prior to insertion, Hayashi illustrates that the outer diameter of the skirt 16a is much larger than the inside diameter of the internal surface (Page 9 Line 6), therefore, it would not have substantially the same shape.

As seen in attachment #2, Hayashi illustrates, in a cross sectional view, that the sealing surface of the skirt (16a) has the same shape (circular shape) as the internal surface of the cavity (at 1). Prior to insertion, the second portion of the skirt will be expanded outwardly a little, however, the cross section will not change, i.e., it would be a circular cross section, same shape as the internal surface. Therefore, Hayashi

does disclose that the shape of the sealing surface of the skirt is the same shape as the internal surface of the cavity.

The claim language states, “ A method of sealing an opening of a cavity comprising the steps of: inserting a portion of a structure through a sleeve of a sealing assembly, the sealing assembly having a molded skirt constructed from an electrically insulating, elastomeric material, inserting a section of the structure including portion of the structure inserted through the sealing assembly into the cavity through the cavity opening so that the molded skirt is in sealing contact with the inside surface of the cavity wherein the molded skirt comprises a sealing surface that has substantially the same shape as the interior surface of the cavity prior to insertion into the cavity so that the skirt deforms only a small amount to form a seal between the sealing surface and the interior surface of the cavity”.

In the device that the applicant discloses as his invention, the sealing surface needs to have a larger outer diameter than the inner diameter of the internal cavity so as to deform to form the seal between the sealing surface and the interior surface of the cavity. If the diameters are the same, then the sealing surface of the skirt will not create a seal between the sealing surface and the interior surface of the cavity.

At the instant, Hayashi discloses that the sealing surface needs to have a larger outer diameter than the inner diameter of the internal cavity so as to deform to form the seal between the sealing surface and the interior surface of the cavity. The sealing surface of Hayashi's device deforms only a “small” amount when it is

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inserted into the cavity. Thus, the claimed limitations are met and the arguments are not persuasive.

Further, the examiner would like to point out that the applicant has not defined what a "small" amount would be. Therefore, the examiner contends that one of ordinary skill in the art would consider the amount of Hayashi's deformation as a "small" amount.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Carlos Lugo
AU 3676
October 24, 2005.

C.L.

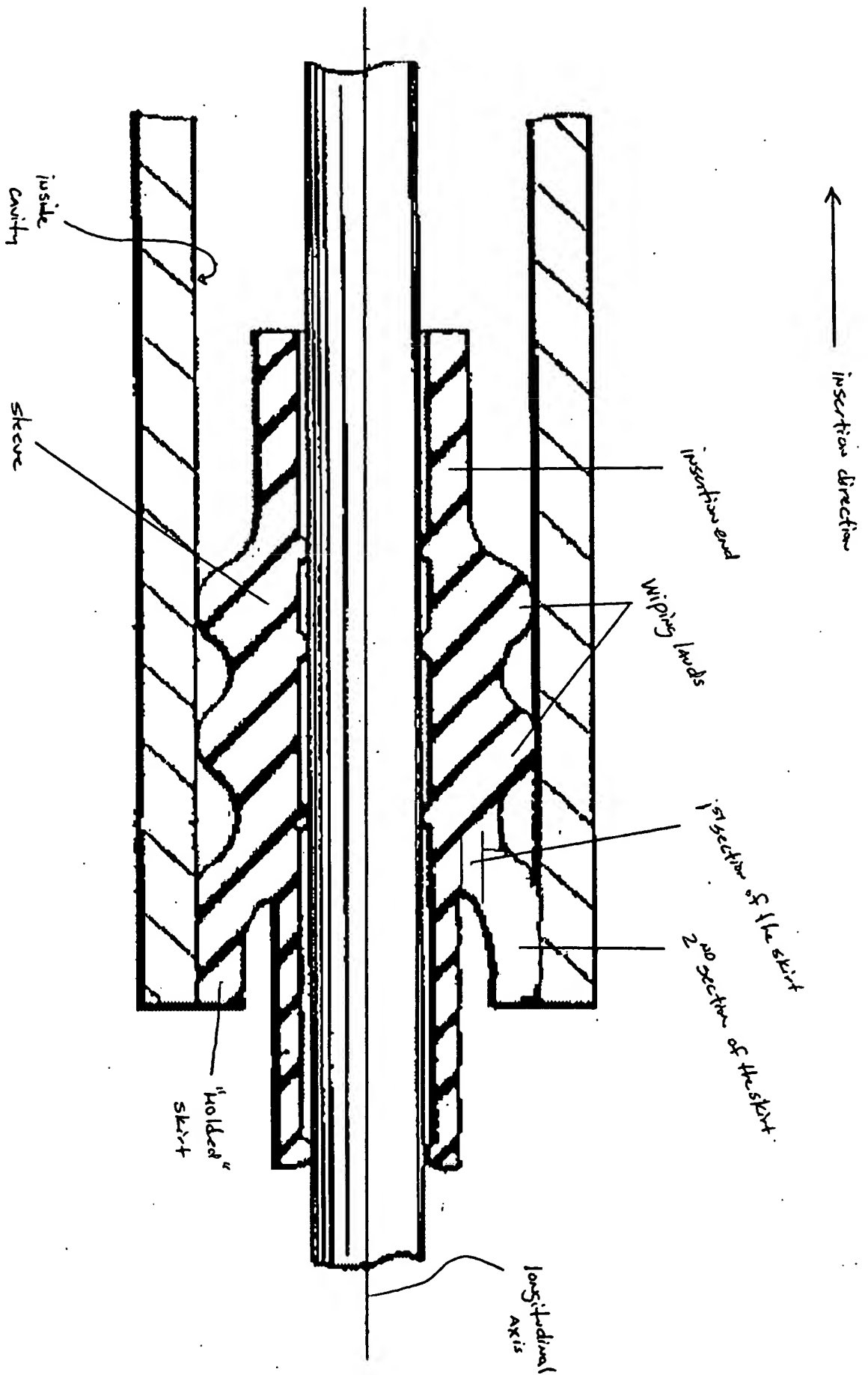
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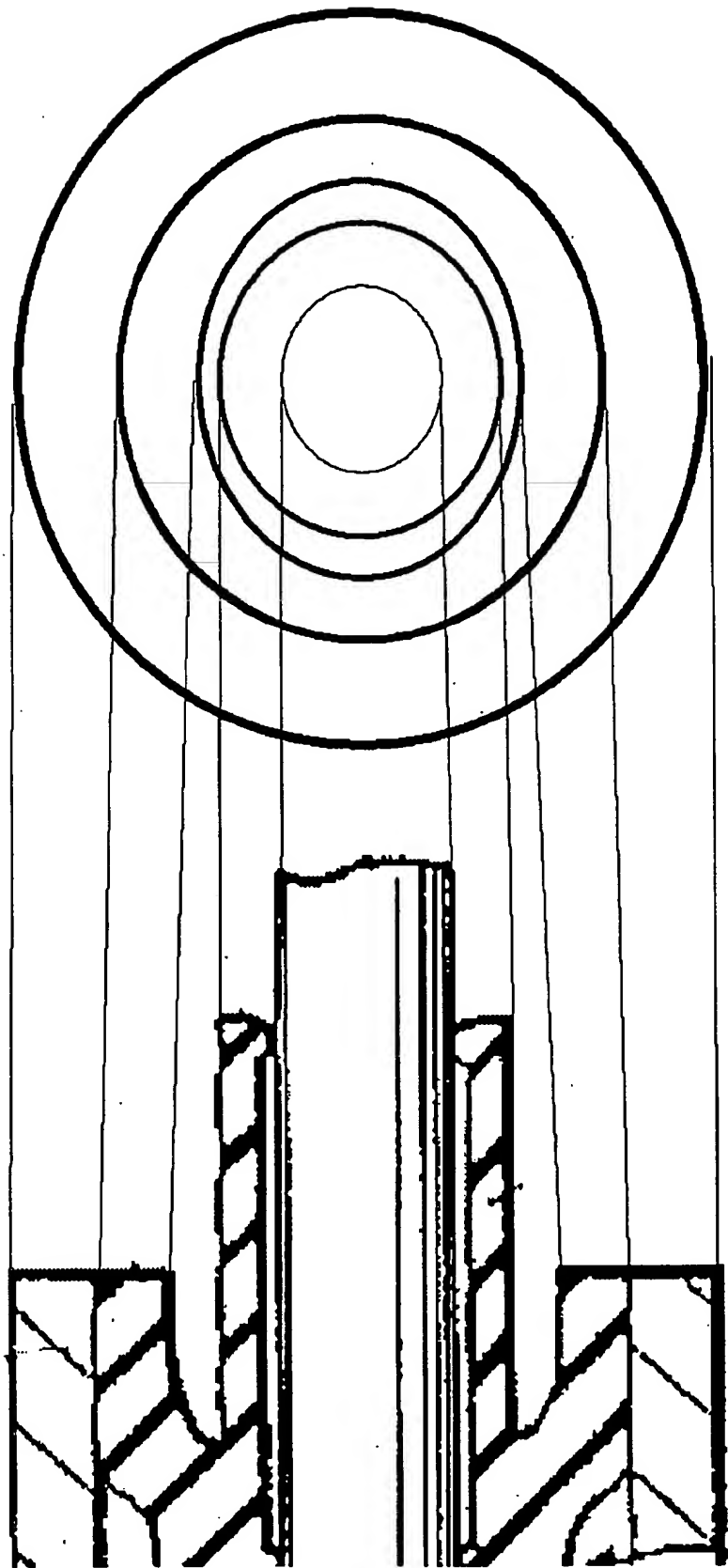
Brian Glessner
Daniel Stodola

B.G.
DPS



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER





Attachment #2